

AMENDED IN ASSEMBLY AUGUST 23, 2002

AMENDED IN ASSEMBLY JUNE 30, 2002

AMENDED IN ASSEMBLY MARCH 18, 2002

AMENDED IN SENATE JANUARY 9, 2002

AMENDED IN SENATE MARCH 27, 2001

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**SENATE BILL****No. 17**

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**Introduced by Senator Figueroa**

December 4, 2000

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An act to amend Section 9787 of, and to add Sections 9715.1, 9721, and 9722 to, the Business and Professions Code and to amend Sections 7054, 7103, 7111, 103775, and 103780 of the Health and Safety Code, relating to health and safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 17, as amended, Figueroa. Health and safety: cemeteries: human remains: vital records.

(1) Existing law, the Cemeteries Act, provides for the licensing and regulation of cemeteries and crematories by the Cemetery and Funeral Bureau.

This bill would, *on and after July 1, 2003*, require all cemeteries for which a certificate of authority is required and all crematories which are licensed, to be supervised by a manager that has passed a written examination demonstrating an understanding of applicable provisions regarding, among other things, the disposal of human remains. This bill would, *on and after July 1, 2003*, require the bureau to inspect the books, records, and premises of any cemetery for which a certificate of

authority from the bureau is required. This bill would require that the bureau have access to all books, records, buildings, mausoleums, columbariums, and storage areas during specified times and that the bureau conduct, *on and after July 1, 2003*, at least one annual unannounced inspection of a cemetery for which a certificate of authority is required. This bill would, *on and after July 1, 2003*, prohibit a person from engaging in the business of, acting as, or advertising as, a cemetery or crematory manager without a license from the bureau.

(2) Existing law provides that, unless specified, it is a misdemeanor to deposit or dispose of human remains except in a cemetery. Existing law additionally provides that it is a misdemeanor to fail to inter a corpse within a reasonable period of time if one has a legal duty to do so, that it is a misdemeanor to fail to furnish or to furnish false information affecting specified certificates or records, and that it is a misdemeanor to willfully alter or knowingly possess altered documents or to falsify a birth certificate, death certificate, or marriage certificate. Existing law provides that a misdemeanor is ~~punished~~ *punishable* by imprisonment in a county jail for 6 months, by a \$1,000 fine, or by both ~~the~~ *that* imprisonment and fine, unless a different punishment is prescribed by law.

This bill would specify that punishment *of licensees and certain unlicensed persons* for these actions would include imprisonment in a county jail not exceeding 1 year, or by a fine not exceeding \$10,000, or by both ~~the~~ *that* imprisonment and ~~the~~ fine. By increasing the imprisonment for these misdemeanors, the bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 9715.1 is added to the Business and  
2 Professions Code, to read:



1 9715.1. (a) Each cemetery for which a certificate of authority  
2 is required shall be operated under the supervision of a manager  
3 who is qualified in accordance with the regulations adopted by the  
4 bureau. Each cemetery manager shall be required to successfully  
5 pass a written examination evidencing an understanding of the  
6 applicable provisions of this code and of the Health and Safety  
7 Code. No person shall engage in the business of, act in the capacity  
8 of, or advertise or assume to act as, a cemetery manager without  
9 first obtaining a license from the bureau.

10 (b) *This section shall become operative on July 1, 2003.*

11 SEC. 2. Section 9721 is added to the Business and Professions  
12 Code, to read:

13 9721. (a) The bureau shall inspect the books, records, and  
14 premises of any cemetery where a certificate of authority is  
15 required under this chapter. In making the inspections, the bureau  
16 shall have access to all books and records, buildings, mausoleums,  
17 columbariums, storage areas, including storage areas for human  
18 remains, during regular office hours or the hours the cemetery is  
19 in operation. No prior notification of the inspection is required to  
20 be given to the holder of the certificate of authority. If any  
21 certificate holder fails to allow the inspection or any part thereof,  
22 disciplinary action including, but not limited to, revocation or  
23 suspension may be taken against the certificate of authority. All  
24 disciplinary proceedings shall be conducted in accordance with  
25 this chapter.

26 (b) *This section shall become operative on July 1, 2003.*

27 SEC. 3. Section 9722 is added to the Business and Professions  
28 Code, to read:

29 9722. (a) The bureau shall annually conduct a minimum of  
30 one unannounced inspection of each cemetery for which a  
31 certificate of authority is required.

32 (b) *This section shall become operative on July 1, 2003.*

33 SEC. 4. Section 9787 of the Business and Professions Code  
34 is amended to read:

35 9787. (a) Each crematory for which a crematory license is  
36 required shall be operated under the supervision of a manager  
37 qualified in accordance with rules adopted by the bureau. Each  
38 manager shall be required to successfully pass a written  
39 examination evidencing an understanding of the applicable

1 provisions of this code and of the Health and Safety Code. No-  
2 Code.

3 (b) *On and after July 1, 2003, no person shall engage in the*  
4 *business of, act in the capacity of, or advertise or assume to act as,*  
5 *a crematory manager without first obtaining a license from the*  
6 *bureau.*

7 SEC. 5. Section 7054 of the Health and Safety Code is  
8 amended to read:

9 7054. (a) *(1) Except as authorized pursuant to the sections*  
10 *referred to in subdivision (b), every person who deposits or*  
11 *disposes of any human remains in any place, except in a cemetery,*  
12 *is guilty of a misdemeanor that shall be punishable by*  
13 ~~*imprisonment in a county jail not exceeding one year, by a fine not*~~  
14 ~~*exceeding ten thousand dollars (\$10,000), or both.*~~

15 *(2) Every licensee or registrant pursuant to Chapter 12*  
16 *(commencing with Section 7600) or Chapter 19 (commencing with*  
17 *Section 9600) of Division 3 of the Business and Professions Code*  
18 *and the agents and employees of the licensee or registrant, or any*  
19 *unlicensed person acting in a capacity in which a license from the*  
20 *Cemetery and Funeral Bureau is required, who, except as*  
21 *authorized pursuant to the sections referred to in subdivision (b),*  
22 *deposits or disposes of any human remains in any place, except in*  
23 *a cemetery, is guilty of a misdemeanor that shall be punishable by*  
24 *imprisonment in a county jail not exceeding one year, by a fine not*  
25 *exceeding ten thousand dollars (\$10,000), or both that*  
26 *imprisonment and fine.*

27 (b) Cremated remains may be disposed of pursuant to Sections  
28 7054.6, 7116, 7117, and 103060.

29 (c) Subdivision (a) of this section shall not apply to the reburial  
30 of Native American remains under an agreement developed  
31 pursuant to subdivision (l) of Section 5097.94 of the Public  
32 Resources Code, or implementation of a recommendation or  
33 agreement made pursuant to Section 5097.98 of the Public  
34 Resources Code.

35 SEC. 6. Section 7103 of the Health and Safety Code is  
36 amended to read:

37 7103. (a) Every person, upon whom the duty of interment is  
38 imposed by law, who omits to perform that duty within a  
39 reasonable time is guilty of a misdemeanor ~~that shall be punishable~~  
40 ~~by imprisonment in a county jail not exceeding one year, by a fine~~

1 ~~not exceeding ten thousand dollars (\$10,000), or both. In addition,~~  
2 ~~he or she is liable to pay to the person performing.~~

3 (b) Every licensee or registrant pursuant to Chapter 12  
4 (commencing with Section 7600) or Chapter 19 (commencing with  
5 Section 9600) of Division 3 of the Business and Professions Code,  
6 and the agents and employees of the licensee or registrant, or any  
7 unlicensed person acting in a capacity in which a license from the  
8 Cemetery and Funeral Bureau is required, upon whom the duty of  
9 interment is imposed by law, who omits to perform that duty within  
10 a reasonable time is guilty of a misdemeanor that shall be  
11 punishable by imprisonment in a county jail not exceeding one  
12 year, by a fine not exceeding ten thousand dollars (\$10,000), or  
13 both that imprisonment and fine.

14 (c) In addition, any person, registrant, or licensee described in  
15 subdivision (a) or (b) is liable to pay the person performing the  
16 duty in his or her stead treble the expenses incurred by the latter  
17 in making the interment, to be recovered in a civil action.

18 SEC. 7. Section 7111 of the Health and Safety Code is  
19 amended to read:

20 7111. A cemetery authority or crematory may make an  
21 interment or cremation of any remains upon the receipt of a written  
22 authorization of a person representing himself or herself to be a  
23 person having the right to control the disposition of the remains  
24 pursuant to Section 7100.

25 A cemetery authority or crematory is not liable for cremating,  
26 making an interment, or for other disposition of remains permitted  
27 by law, pursuant to that authorization, unless it has actual notice  
28 that the representation is untrue.

29 SEC. 8. Section 103775 of the Health and Safety Code is  
30 amended to read:

31 103775. (a) Every person, except a parent informant for a  
32 certificate of live birth and as provided in subdivision (b), who is  
33 responsible for supplying information who refuses or fails to  
34 furnish correctly any information in his or her possession that is  
35 required by this part, or furnishes false information affecting any  
36 certificate or record required by this part, is guilty of a  
37 misdemeanor.

38 (b) Every licensee or registrant pursuant to Chapter 12  
39 (commencing with Section 7600) or Chapter 19 (commencing  
40 with Section 9600) of Division 3 of the Business and Professions

1 Code, and the agents and employees of the licensee, or any  
2 unlicensed person acting in a capacity in which a license from the  
3 Cemetery and Funeral Bureau is required, who is responsible for  
4 supplying information and who refuses or fails to furnish correctly  
5 any information in his or her possession that is required by this  
6 part, or furnishes false information with intent to defraud affecting  
7 a death certificate or record required by this part, is guilty of a  
8 misdemeanor that shall be punishable by imprisonment in a county  
9 jail not exceeding one year, by a fine not exceeding ten thousand  
10 dollars (\$10,000), or ~~both~~ *by both that imprisonment and fine*.

11 SEC. 9. Section 103780 of the Health and Safety Code is  
12 amended to read:

13 103780. (a) Every person, except as provided in subdivision  
14 (b), who willfully alters or knowingly possesses more than one  
15 altered document, other than as permitted by this part, or falsifies  
16 any certificate of birth, fetal death, death, or registry of marriage,  
17 or any record established by this part is guilty of a misdemeanor.

18 (b) Every licensee or registrant pursuant to Chapter 12  
19 (commencing with Section 7600) or Chapter 19 (commencing  
20 with Section 9600) of Division 3 of the Business and Professions  
21 Code, and the agents and employees of the licensee, or any  
22 unlicensed person acting in a capacity in which a license from the  
23 Cemetery and Funeral Bureau is required, who willfully alters or  
24 knowingly possesses more than one altered document, other than  
25 as permitted by this part, or falsifies any certificate of death, is  
26 guilty of a misdemeanor that shall be punishable by imprisonment  
27 in a county jail not exceeding one year, by a fine not exceeding ten  
28 thousand dollars (\$10,000), or ~~both~~ *by both that imprisonment and*  
29 *fine*.

30 SEC. 10. No reimbursement is required by this act pursuant  
31 to Section 6 of Article XIII B of the California Constitution  
32 because the only costs that may be incurred by a local agency or  
33 school district will be incurred because this act creates a new crime  
34 or infraction, eliminates a crime or infraction, or changes the  
35 penalty for a crime or infraction, within the meaning of Section  
36 17556 of the Government Code, or changes the definition of a  
37 crime within the meaning of Section 6 of Article XIII B of the



1 California Constitution.  
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